

**THE MINUTES OF THE REGULAR CITY COUNCIL MEETING HELD  
MONDAY, SEPTEMBER 11, 2000 AT 1:30 P.M.**

The Meeting was called to order at 1:30 p.m. Present: Council Chairperson Shoecraft; Council Members: Camp, Cook, Fortenberry, Johnson, McRoy, Seng; Joan Ross, Deputy City Clerk.

The Council stood for a moment of silent meditation.

**READING OF THE MINUTES**

SENG Having been appointed to read the minutes of the City Council proceedings of Aug. 28, 2000, reported having done so, found same correct.

Seconded by Camp & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy. Seng, Shoecraft; NAYS: None.

**PUBLIC HEARING**

APP. OF RT OMAHA FRANCHISE LLC DBA RUBY TUESDAY FOR A RETAIL CLASS I LIQUOR LICENSE AT 5508 S. 56TH ST.;

MAN. APP. OF DOUGLAS BRYON DAIZE FOR RT OMAHA FRANCHISE LLC DBA RUBY TUESDAY FOR A RETAIL CLASS I LIQUOR LICENSE AT 5508 S. 56TH ST. - Doug Daize, 2111 Boston Dr., took oath: President-Owner of Ruby Tuesday, Omaha Franchise. This matter was taken under advisement.

APP. OF IRIE INC. DBA DOC'S PLACE FOR A SDL TO COVER AN AREA MEASURING 96' BY 24' AT 201 N. 8TH ST. ON SEPT. 23, 2000 FROM 8:00 A.M. TO 1:00 A.M.;

APP. OF IRIE INC. DBA DOC'S PLACE FOR A SDL TO COVER AN AREA MEASURING 96' BY 24' AT 201 N. 8TH ST. ON SEPT. 30, 2000 FROM 8:00 A.M. TO 1:00 A.M. - James Flack, 1506 E Street:

Jerry Shoecraft, Council Member: What are you going to be doing on this? Where's this going to be at?

Mr. Flack: We've leased the property in front of Fox and Hound. They've run into some construction delays so we're taking over their front dock area in front of the building called the Candy Factory, so ... any questions?

Mr. Shoecraft: No. Thank you.

This matter was taken under advisement.

APP. OF CORNHUSKER SQUARE LAND CO. DBA CORNHUSKER HOTEL FOR A SDL COVERING AN AREA AT THE GOVERNOR'S MANSION AT 1425 H ST. ON SEPT. 23, 2000 FROM 8:00 A.M. TO 1:00 A.M. - Jerry Barnes, General Manager of Cornhusker, 6427 Westminister Court, came forward to answer any questions.

This matter was taken under advisement.

APP. OF TEPANTLA, INC. DBA MAZATLAN MEXICAN RESTAURANT FOR A RETAIL CLASS I LIQUOR LICENSE AT 211 N. 70TH ST.;

MAN. APP. OF ABRAHM MORALES FOR TEPANTLA INC. DBA MAZATLAN MEXICAN RESTAURANT AT 211 N. 70TH ST. - Christopher Heinrich, no address given, oath taken: Attorney for Tepantla Inc. the applicant herein for the restaurant Mazatlan at 211 N. 70th St.

This matter was taken under advisement.

APP. OF TAMY INC. DBA TAM O'SHANTER FOR AN ADDITION TO THEIR CLASS C LIQUOR LICENSE OF AN AREA MEASURING 20' BY 42' TO THE SOUTH AT 105 S. 25TH ST. - Sharon Elder, 1015 Downey Court, oath taken.

This matter was taken under advisement.

APP. OF LAMBERT INVESTMENTS LLC DBA INN AT LINCOLN FOR A CLASS I LIQUOR LICENSE AT 5250 CORNHUSKER HWY.;

MAN. APP. ALBERT LAMBERT FOR LAMBERT INVESTMENTS LLC DBA INN AT LINCOLN AT 5250 CORNHUSKER HWY. - Daniel Clause, Attorney for Lambert Investments, no address given & Al Lambert, no address given, oath taken:

Coleen Seng, Council Member: Is this, have you just changed hands here just recently?

Mr. Clause: Yes, there was a change of ownership of the facility and this is the new owner that's applying for the license to replace the other one.

This matter was taken under advisement.

APP. OF SAND CORP. DBA THE WATERING HOLE FOR A LIQUOR CATERING LICENSE AT 1321 "O" ST. - Ben Sand, 6305 W. Adams St., Owner, oath taken.

This matter was taken under advisement.

APP. OF FAMOUS DAVE'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE TO COVER AN OUTSIDE 60' CIRCULAR AREA AT 2750 PINE LAKE RD. ON SEPTEMBER 30, 2000 FROM 8:00 A.M. TO 10:00 P.M. - John Mackey, 5140 Jade Court, Lincoln, came forward to answer any questions.

This matter was taken under advisement.

CHANGE OF ZONE 3268 - APP. OF GARNER INDUSTRIES FOR A CHANGE FROM I-2 INDUSTRIAL PARK TO I-2 INDUSTRIAL PARK PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT N. 98TH ST. & CORNHUSKER HWY. - Mark Hunzeker, 530 S. 13th St., Suite B: Appearing on behalf of Garner Industries. We are back to you now with the Planned Unit Development which we promised several months ago when we initially got this property zoned and you approved the re-zoning together with some restrictive covenants. There is at least one item which remains to be worked out between the County and, hopefully, with some help from the City with respect to 98th Street itself. We discovered after getting some finer engineering work done that there's a large water main in 98th Street that may need to be moved, probably will need to be moved as part of 98th Street construction. We have yet to work out exactly how that is going to be accomplished or at least who is going to help pay for that. We, or course, don't feel like it's Garner's responsibility to do that. The grades of the road, of course, need to be altered. If it were a county project it would be the City's responsibility. So, we are in discussions with the County and, hopefully, some additional discussion with the City over the next week to try and get that resolved prior to your taking action on this. So I'm here, basically, to ask you to please hold open the public hearing and have it third reading with public hearing next week. So hopefully we can get that resolved. We came across this kind of late, we had a little bit of trouble getting a hold of the accurate information on the pipe specifications from the manufacturer and discovering exactly what it was going to take to change or how much cover that pipe needs so we're going to need to have some additional discussions which I think will take place, hopefully, earlier than later this week. So, we are very anxious to proceed. Garner is actually on a tract that needs to commence moving dirt, very, very soon so we're trying to get that resolved as quickly as we can. And, I'd try to answer any questions you have about it.

Coleen Seng: I would move that we continue the public hearing next week.

Deputy Clerk: The third reading?

Ms. Seng: The third reading.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

This matter was taken under advisement.

CHANGE OF ZONE 3206 - APP. OF REALTY TRUST GROUP FOR A CHANGE FROM AGRICULTURAL RESIDENTIAL TO B-1 LOCAL BUSINESS DIST. ON PROPERTY GENERALLY LOCATED AT S. 70TH ST. & PINE LAKE RD.;

CHANGE OF ZONE 3207 - APP. OF REALTY TRUST GROUP FOR A CHANGE FROM AGRICULTURAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS DIST. ON PROPERTY GENERALLY LOCATED AT S. 84TH ST. & OLD CHENEY RD. - Michael Marsh, Officer of MJM Inc. & Realty Trust Group, 3740 Williamsburg Dr.: I wanted to go over a brief overview of this property in general of our company as it relates to this property here. A couple of the most recent properties our company has done is the Alpine Village at 48th and Normal which is a mountain looking setting that is all brick with chimney fireplaces. And, I bring this up because this is a model project that we brought forward that blended in with the residential community that I believe has been an asset to the neighborhood. Also, the Allstate building at N. Cotner and R Street which was previously Gateway Medical Center & we subsequently tore that down to build this Allstate drive-in facility and we also went through extra lengths by putting all stone on this building. And, I say if you've seen it it's got to be one of the nicest looking drive-through claims facilities in Nebraska. This property, what we're here about today is at 70th & Pine Lake. We do own this property. It's not an option piece of property and we are just very long term player in this community for the past 40 years. In fact, anything that we've ever developed we've never sold. This particular property sits on the north and southwest corner of 70th & Pine Lake. That's the first time we've every requested zoning or anyone has ever requested zoning for this particular piece of property. This property, what I believe everybody can see where the narrowest point is that is the five acres. It sits within the City limits and has access to the City utilities. At this intersection it's just been

completed in the last couple months. It is now four lanes in each direction on Pine Lake as well as 70th Street. As far as where the immediate area is, we're surrounded by residential here at this corner here it is in the Comp Plan for commercial use. And, this is actually, five acres a very small piece. The piece at this corner right here, I believe, is 33 acres in the Comp Plan for commercial use. At this property we met and held a meeting with the neighbors October 11 of last year. I think we surprised the neighbors by asking them to come forward, asking them for their input. They were very appreciative of us coming forward and we were asking them to express their concerns and desires of this, how this corner would be used. Things that came up at this meeting were things such as, well we don't want any late hour businesses. We're concerned about lights. We're concerned about a screen of trees. And then from that we took what they had given us at that meeting, and there was very little negativity. It was a very positive meeting. They looked at it realistically as they see this as commercial, but we want it done right and we're the first people to agree with that. We want to be proud of what is going to be there as well as be an asset to the community as opposed to something negative. So, basically, what we did is took everything that the neighbors that gave us their input and incorporated and thought the best use is going to, our vision for this is a medical convenience center which would be modeled much after, I think you can see in some of the packets, of our Alpine Village look at 48th & Normal which would be a very high quality usage and a very upscale center and a low impact as far as the corner goes. And, from here I'd like to hand it over to Bob Weigel to explain our vision of this corner and if you look in your pamphlet I think it will come much clearer.

Bob Weigel, 3100 Dorado Court, Lincoln: If I could get that picture to put on the form. You do have that same picture in front of you, but if I could just make a few comments to you. And like Mike has said, after meeting with the neighbors along Pine Lake and adjacent to us their desire was not to have 24 hour lighting. They realized it should go commercial, they really liked the idea of offices and the professional offices. Sushil Lacy is a friend of ours, has been a longtime been developed, as you aware, with his partners in Urology new offices at 56th & Pine Lake. Sushil is the one who has steered us in direction of medical, also. The doctors have talked to him first about adding such a fine facility. We think we're taking it up an extra step because it is Pine Lake and mainly thought of a lake similar, but larger than Campbell has at 56th & Pine Lake with the fountain in the middle and stones around it. Only did we allow a ground level sign as you see here. When we first developed 70th & O back in the 70's (inaudible) that out of the 5,000 and some stores they had nationwide they've never been prohibited from putting in a banjo type sign. On the corner if you look at 70th & O you'll see that there has never been a banjo type sign on that corner and there never will be. Here then we're showing the similar, we love the darker picture. I'm sure you're familiar with what we've done in behind Union Bank at 48th & Normal on that northeast corner. We were asked by Planning to bring forward as they were bringing back the transitional usage next to our B-1 there. And, to do a model project we think that we have exceeded that for you. We found the two story look with the low occupancy on the second level and brick with the high glass. We've screened it completely there as we would here. Better screening here because, folks, this is a tree farm. And, we love trees and the neighborhood to the west wanted the assurance that we would not be taking out that screen of trees. We assured that not only there, but all the way around the perimeter trees will stay. The Alpine look, we think, going with nature goes with the lake look here. A pharmacy in that first building on the left and two doctors buildings. I would be open to any questions. I think that's all that Mike & I can tell you. If you have any questions we would surely (inaudible).

Jon Camp, Council Member: I'd just like to say this is the first time I've seen your rendition here and I'm glad you've included a water type feature and that fountain there. Your rendition looks quite attractive.

Mr. Weigel: The public has asked for a lake. We love what Campbell's have done going down (inaudible). We're trying (inaudible) house. After hours people are out around this lake enjoying it and being an environmentalist we can't see anything else than a lake in that corner.

Bill Austin, Cornhusker Plaza 301 S 13th, Lincoln: I'm here representing the Sanitary Improvement District #2 of Lancaster County. We have filed a letter in opposition to this change of zone and are here simply to re-state our continuing opposition to our change of zone. The area in question is located within a 1 1/2 mile area that is included within the proposed 84th & Highway 2 Subarea Plan and our primary opposition is

to a change of zone that would precede completion of that subarea plan which I believe is now in process and want to go on record stating that the Sanitary Improvement District continues to oppose this change of zone. Thank you.

Alan Slattery, 1201 Lincoln Mall, Suite 102: I'm an attorney representing the Pine Lake Neighborhood Assn. The, as Mr. Austin has indicated this area, both of these applications is within the 84th & Highway 2 Subarea Plan. As an introductory statement I just note that the 84th & Highway 2 Subarea offers unique opportunity for the City of Lincoln to provide for high quality commercial development. The City Council, we believe, must show some strong leadership to deal with the pressures that it will face as it deals with the many projects which are going to be coming forward before you this one and many others which are not consistent with the goals in the Comprehensive Plan. We believe that you need to send a strong message to developers to bring forward projects which do comply with the goals in the Comprehensive Plan. There are many reasons noted in the Planning Dept. report for denying or recommending a denial of this particular application including that the change of zone doesn't conform to the Comprehensive Plan that the proposal doesn't meet any of the criteria for the nine types of commercial areas encouraged by the Comprehensive Plan area has adequate commercial services, planned or existing, in this area. Access to the site will be difficult. The Pine Lake Neighborhood Assn. has over a 130 residences within the development. Pine Lake Neighborhood Assn. has some additional concerns besides the reasons for denial cited by the Planning Dept. And, first let me remind you of three goals in the comprehensive plan which would relate to this application and to this Subarea Plan. One of those goals is to discourage strip development and to encourage higher quality retail and commercial development. Second, to avoid four corner commercial development. Third, to maintain zoning and traffic patterns that are compatible with existing land uses that retain the character of rural and urban neighborhoods. These goals form the basis for the reasons that the Pine Lake objects to this application. Last week Andermatt Corp. submitted a proposed Highway 2 and 84th Street Subarea Plan. Their proposal includes over three million square feet of commercial uses at 84th & Highway 2 alone, not to mention all the other proposals, including this one, that either have been submitted for application or will be coming or on the drawing board right now. The Comprehensive Plan also denotes other commercial uses besides Highway 2 and 84th Street at the northeast corner of 70th & Pine Lake Road and the neighborhood commercial center at the southeast corner of 84th & Old Cheney. The Pine Lake Board believes that if you approve this application and others before you which do not comply with the Comprehensive Plan that there's going to be a proliferation of commercial uses out there may lead to a situation where existing residences may be the only ones out there because I think you'll see proposals for most of the rest of the Subarea that involve some type of a commercial use. With specific reference to the 84th and Highway 2 Subarea Plan Exhibit E in the Comprehensive Plan or to the Subarea Plan was adopted which states that zoning in this Subarea will not occur until various studies including a traffic study have been completed. If commercial zoning should occur on a piecemeal basis out here these traffic studies and other studies are always going to be going after kind of a moving target because they're based on the comprehensive plan as it exists. If you approve more commercial use they're not going to be factored into the traffic and other studies and the consequences will be happening from the additional commercial development out there. So, with that I would, again, state that the Pine Lake Neighborhood Assn. recommends denial of this application. I'd be happy to answer any questions.

Mr. Camp: Alan, I appreciate your coming. If I could summarize then the comments from the Pine Lake's Assn., in fact could you do it in one or two sentences and then I'd make a couple comments.

Mr. Slattery: Eventually too much commercial out in this area. This application does not comply with the Comprehensive Plan.

Mr. Camp: Granted we've got that mile and half circumference or radius there. If you didn't have that and I'm thinking through again what you just read on the Comprehensive Plan, does this come into that pure commercial tone or how does the Association view it?

Mr. Slattery: You mean as it relates to Exhibit, well we're not able to, again we're hearing three million square feet from the one proposal. There are, I don't know how many additional square feet of commercial, office, retail, whatever other types of uses may come from this and the question is when they all come in that, you know, three million square feet may be too much. And, again you're going to have lots of competing considerations. It's a very hot area, lots of interest in

that area, and we're not, at this point, picking and choosing we're just saying that these need to be scaled down. Unless you, I mean with this particular project it's not factored into the traffic studies that Andermatt had put in. We just don't know what all the consequences will be.

Mr. Camp: So, it sounds like, and I've talked to several of the homeowners in the Pine Lakes area, it sounds like there's just unanswered questions as opposed to total opposition, but rather just saying at this point there's an uncomfot or discomfort. I don't want to put words in your mouth, but I'm just trying to get a flavor for everything.

Mr. Slattery: this site is out at the edge of the mile and a half. The Pine Lakes Associations have come and opposed other zoning changes within this area because of the language in Exhibit E and until all these studies are done we just don't believe anything should be approved out there.

Mr. Camp: Thank you.

Mr. Weigel: I have the utmost respect for Bill Austin and let me just comment on his Sanitary District concerns. This is such a low impact. I'm sure Engineering will tell you that the sanitary sewer use on this tract would be far less than densities equal in residences. Secondly, and coupling with the last Counselor, I want to tell you that first off Pine Lake is not even on this Exhibit and you know the road turns and crosses Highway 2 and Pine Lake is somewhere off my map. I can appreciate what he says and agree that we're on that peripheral. I doubt that it's within the mile and half, but let's assume that it is. Lastly, I want to say this to you and I've been waiting for a forum to say this to you, too, Pine Lake has a problem and if you don't know it let me tell you quickly our experience. We were under contract with the former owners of the tract where Berean Church is expanding onto and it goes to Pine Lake. We walked away, canceled our contract, were threatened with litigation, Mary Jo Livingston bought the piece right next to Pine Lake and the Berean Church we helped to buy the tract next to them. Initially our decision was simple, when I walked through the piece of property and I think you know where we're talking about now, east of the Berean Church, just beyond their expansion I suddenly through the weeds went up to over my knees in muck. Now this wasn't simple muck this was the kind of discharge they're putting out from their Pine Lake existing treatment center. The smell was abominable. I pity the wildlife. I don't have a solution, but I can tell you we wanted nothing to do with it. It needs to be fixed, you're going to fix it with sanitary sewers hopefully soon. I could appreciate their concern and Bill's concern. They better aim it, you'd better aim it at Pine Lake. They must be way over capacity and they're way out of the bounds for what they're doing to the surrounding area. Thank you for giving us a couple more minutes.

Mr. Marsh: I can save the intro? OK. This property is located, and again this property at 84th & Old Cheney is the first time it's been requested for a zone change. This one we also do own. It's not something that we're looking for a short term profit on this. We're a long term player here. This particular site sits on the northwest corner of 84th and Old Cheney. It is also inside the City limits and has City utilities. The four corners here, this will all be residential. Catty corner we have Bob Hampton with, I believe he has the zoning for, he's in the Comp Plan at minimum. We've got the zoning for the opposite corner here for 20 acres. Lincoln Christian School directly to the south and then again more residential to the east there. This one we had a meeting with the neighbors here October 13th of last year. At this particular meeting we had absolutely no opposition. We took it upon ourselves after meeting with Lincoln Christian who were one of the attendees and made a declaration of use restriction at this property which states that we are prohibiting any theater of X-rated movies and any sale of adult sex books or magazines of any kind and also that any business could not be more than 50% of it's sales from liquor looking for that we could see a restaurant going in here, but not a liquor store. Particularly with Lincoln Christian School directly across the street here. Our vision here is a neighborhood center that is similar to the Piedmont Center where it is also anchored by a family Christian store. Our vision here was to have it as a Lincoln Christian anchored center where we would give the existing structures to Lincoln Christian School to use as their administration offices which is directly across the street. There is a need for this. They are out of room and obviously anytime that we can help out Lincoln Christian we're saving City tax dollars for every student that goes to this school and they could use the more class room. Lincoln Christian, by the way, on this site does need a zone change in order just to use this as administration offices. Again, at this location we're looking for a very

high quality neighborhood center enhancing the surrounding neighborhood. If I could show you a picture and again I'll hand this over to Bob to explain our vision here at this corner.

Mr. Weigel: You can even see our little red barn back here where we're going to keep. You can see, you can see the building that exists in log which sets the aesthetics from the entire development. They're offering to give the usage to Lincoln Christian Schools at no cost as long as they'd like to have it. That is the acre that Mike speaks of. And, you can see many trees, low density, and like Mike has told you if you'll think a little bit about Piedmont, we think this is another notch or two above a Piedmont Center anchored by a Christian endeavor that's worthy. And, again putting the fireplaces on the offices and shops, again, medical, professional offices, is what we will build here for you and will do the fireplaces and screening with the trees and shrubbery so the impact will be very minimal. We've met with Mr. Hartman. His interest, of course, is selling the lots and we believe that we've convinced him that the screening will be certainly adequate for low density done in the utmost and finest way that we think that you'll be proud of. Again, no banjo signs, low density signing in the brick on that corner. Yes, again the logs that are existing in the building for Lincoln Christian Administration will be carried out again with the fireplace look, the similar roof type and to my knowledge that's never been done in Lincoln so you'll see something that the aesthetics will be very pleasing to you. Any questions?

Jeff Fortenberry, Council Member: Mr. Weigel, what is the proposed setback distance from Old Cheney and 70th?

Mr. Weigel: Obviously, from 84th Street, you mean on the east, they were setting way, way beyond the necessity of the setback. The existing building of Lincoln Christian Administration is setback very, very adequately, Jeff. In fact, today it has a fence across. I was just mentioning to Peter Schroeder, who I think we'll say a few words to you, that we like the fenced (inaudible) screening. Peter has expressed some reservations of perhaps some of the fence should be removed from that setback, but again more than the minimum on both sides. Any thing else. Thank you for your time.

Peter Schrader: I'm here on behalf of Lincoln Christian School which is at 5801 S. 84th Street. Now, first of all I want to say we are glad to be City citizens. In 1996 the Mayor and the Council brought us into the City and since that time we have enjoyed City water and the other protection and security that you give us, so we're thankful for that. We have 650 students, about 400 Lincoln area families which represents a little over 60 different churches. Nondenominational. And, we support and encourage your support of this B-2 zoning request at 84th and Old Cheney. Obviously, our schools interest is probably two-fold. Number one we're very concerned about the long range influence in our neighborhood. We're delighted with the residential impact that we have there, but knowing that our corner is going to be a high impact corner & in alignment (inaudible) that these developers are not only going to give an aesthetically pleasing facility, but more importantly we believe that they will influence the area for good. The second interest is financial. When they came to us with the use of this facility without charge it immediately got our attention. We run our school on tuition and contributions and this is a significant gift. Right now our administrative development office occupies much needed classroom. With our classroom ratio of 15 to 20 students we would release this classroom and it would impact about a 120 to 160 students everyday. We are hopeful that you will give your approval to this zoning request. The history of why we are here, when we were approached we thought well this is going to be a short term slam dunk and it's done. It makes common, it's common sense that we can occupy it. The impact will be less than residential and it'll be, obviously, within everybody's interest. We met with the Mayor. Hopefully, that they would give us opportunity to reside there and they declined. At the Planning Commission that was declined and the only tangible reason that I heard was that they just didn't feel that it was time. Obviously, there are other influences in the area, but we have the need right now. We have a compromise that I would be willing to put forward, and I do this tongue in cheek, that if you would use your considerable influence to get Lincoln Public Schools to tithe on their \$100 million bond issue and give that tithe to the private and public parochial schools in Lincoln we would probably build four or five substantial facilities and we wouldn't be here requesting the use of the existing property at 84th & Old Cheney. I do believe in miracles, but I think possibly that won't happen. So, I come back and I ask you on behalf of our families and our school which is there now going on 49 years that

you give your support to this zoning request. It will impact our families and it will impact the neighborhood for good. So, I ask for your support.

Alan Slattery, 1201 Lincoln Mall: Again, appearing on behalf of the Pine Lake Neighborhood Assn. to oppose this application. I'm not sure what provoked the attack on our association earlier, but we are here in good faith. We're very interested in what's happening within the 84th & Highway 2 Subarea. This site is also located within the radius of the 84th & Highway Subarea. I will not restate the objections by the Planning Dept., but again, I think they're all relevant to this application. In terms of the goals in the Comprehensive Plan when one that is particularly relevant to this application is to avoid four corner development. There is a 20 acre parcel approved in the Comprehensive Plan that's across the street south and east of this particular site which should, it's a neighborhood center which more than adequately meet the needs of this area. And, our concerns again relate to Exhibit E in the Comprehensive Plan applicable to this Subarea which requires certain studies to be completed before any zoning changes occur. And, traffic concerns that will not be adequately addressed and the Andermatt application, the three million square feet within that application alone, not to mention all the other development projects in this area. The, let me restate again our concerns. The 84th and Highway 2 Subarea Plan does give the opportunity to the City of Lincoln to have high quality developments within that Subarea. And, we believe that there will be a lot of pressures on you. There will be a lot of development projects coming before you. We would urge you to look at them very carefully, stay with the Comprehensive Plan and deny those that do not comply with the plan as it exists today.

Bill Austin, Cornhusker Plaza: And again I'm appearing on behalf of the Sanitary Improvement District No. 2 of Lancaster County in opposition to this request of change of zone. Once again our primary concern is that this is within the 1 ½ mile study area of 84th and Highway 2 Subarea Plan and until that Subarea planning is complete we don't think that a change of zone at this location would be appropriate. I did want to mention to you because of comments on the earlier application that on behalf of the Sanitary Improvement Dist. I did want to say that our engineers tell us that the plant that is being operated by Sanitary Improvement Dist. #2 is functioning properly. We have no DEQ violations to the best of my knowledge. It is not over capacity that was an earlier condition that Mr. Weigel referred to, but to the best of my knowledge it is fine right now. And, again primarily our concern is that these change of zones need to be considered within the context of the overall picture of what's going to occur in that area and that process is just beginning now. If you have any questions I'd be happy to try to answer them.

Mr. Weigel: Thank you. I won't take even the two minutes this time. You heard what I had to say before, but I want to remind you of the two points. It's exactly 1.4 miles from Highway 2 84th Street to our corner. Secondly, I don't know how far it is to his clients subdivision and Pine Lake maybe you do, but it's a lot further than 1.4 miles. Thank you.

This matter was taken under advisement.

SPECIAL PERMIT 1846 - APP. OF U.S. WEST WIRELESS L.L.C. TO CONSTRUCT A 78' WIRELESS TELECOMMUNICATIONS TOWER ON PROPERTY GENERALLY LOCATED AT 9TH & "W" STS. & WAIVING THE LANDSCAPING & FALL ZONE REQUIREMENTS - Jill Vinjamuri, Kutak Rock LLP Council for Qwest Wireless, 43rd & Cuming Ave., Omaha, NE: This is a Special Permit application for a personal wireless facility at 9th & W Street. Personal wireless facility, also a cell pole and this is a preferred location site under the Lincoln Wireless Ordinance found at 27.68.080. It is a preferred location for two primary reasons. It's on an industrial zoned property and it also is minimally obtrusive to the neighborhood and has minimal impact on the surrounding areas. In addition to the six application requirements for a personal wireless facility under the Lincoln Wireless Ordinance quest at the request of the Lincoln Planning Dept. has required, has responded with 16 additional pieces for the application for this Council's review that would demonstrate the need and the reason for this site at this location. This is actually before the Council because we have requested a fall zone and landscaping waiver. The landscaping waiver was requested because it is in the middle of a parking lot. Neither the landowner or Quest feels that landscaping would be appropriate or necessary. It's also set forth in the application. We are here today, I want to give you a little history of how this application is before you. We initially applied to the Planning Dept. in May, 2000 on this application. On June 28th it went before the Planning Commission and it was deferred because we were asked to speak with the North Bottoms Neighborhood Association and to check additional

sites in that area. We did both of those. We were back before the Planning Commission on July 12, 2000. We are again deferred by the Planning Commission and asked to specifically check a location near the University of Nebraska, I believe it was at the score board at the stadium on July 26, 2000 we were again before the Lincoln Planning Commission and this time we requested a deferral because we needed more time to actually have our RF Engineers check that location at the University of Nebraska Lincoln. On August 9, 2000 we were before the Lincoln Planning Commission this passed with their vote and sent onto you for the approval because of the fall zone and landscaping labor request. On August 28, 2000 we were deferred by this Council and it was our understanding at the time that we were deferred because a letter was received by the Council on that date from the Neighborhood Assn. requesting further meetings with us. We would like to point out that other than that first meeting, that first Planning Commission meeting on June 28, 2000 no member of the North Bottoms Neighborhood Assn. ever appeared at a public hearing. Qwest Wireless actually have not received a factual copy of the letter that was (inaudible) added to this Council on August 28, 2000. Nonetheless on Sept. 5, 2000 we met with the North Bottoms Neighborhood Assn. Three members of the Qwest Wireless including one RF Engineer and two Real Estate Specialists. We met with, it appeared, six people appeared only two people provided their names. We met for over an hour and half, answered numerous questions, specifically our RF Engineer identified every location within a 10 block radius that we had tested and tried for an alternative site. We tried to specifically have them address what under the ordinance they felt we weren't complying with and how else we could, what else we could answer for them. It appears from the discussion the only thing that we could identify that they were protesting under the ordinance was possibly a visual impact. And, to further address that I'll have in a moment people from Qwest where I'll show you actual visuals on that neighborhood so you can see why we believe and why we also believe that the Planning Commission and the Planning Dept. didn't believe this was a visual impact because it is an industrial zoned area with many poles in that facility. Frankly, before I have our ARF Engineer talk also, we'd just like to point out then, and I think I spoke to this last time that although the Planning Commission has and the City Council has control over some of the putting personal ARF's facilities in Lincoln. If you're going to actually deny or hold over our request one more time we believe that it's governed by the Federal Telecommunication Act of 1996 and that would require this body to put into writing and to provide substantial evidence of why our request for this facility is being denied. And, I would ask now that Jill Bazell and Corby Dill representatives of Qwest, Corby's an ARF Engineer. I'm going to show you pictures of this location and we can also answer questions.

Jill Bazell, Qwest Wireless, 910 N. 43rd. I'm going to show you some pictures of the area. This picture here as if you were actually standing where our site is and looking to the west. As you can see there's many overhead power lines along with light, light poles and such. Here's another picture of our site. This time it's looking north. Again, many overhead power lines, the electric poles and ... This is actually a picture of Capitol Contractors. Our site is actually going to be located in here inside this fence. Another concern of the Neighborhood Assn. was devaluing of their property. This is the Capitol Contractors lot. Our equipment, our pole, I don't see how it would devalue this the area that's already there. The reason that we do ask for landscape waiver, as you can see it's all gravel. There wouldn't be any vegetation that could survive there. This is just another picture of our site. It would be inside those fences behind these things right there. This is a view from I-180 looking down onto the site. As you can see there's many structures that are already there. Here's our proposed tower right there. I don't, this again kind of blends with the visual aesthetics that is already located in the neighborhood.

Ms. Vinjamuri: Explain that our proposed tower that we've actually inputted the view of the tower that's not existing at this point.

Ms. Bazell: This is another view coming from a different direction. As you can see the light poles that are already there. The pole actually wouldn't stand out as much as that. It was a cloudy day and when you do a rendering that's kind of how they show up. You know, I have a couple more pictures just along that same line. Were there any other questions or ...?

Mr. Camp: You showed some nearby light poles, how tall are those?

Corby Dill: I'm the RF Engineer for Qwest here in Lincoln. As the, lets see if I can find ...

Mr. Camp: I think it was to the west.



Mr. Dill: the two shots that showed those. This one here is facing I-180. The light poles you see here and here are actually along I-180. You're looking at probably a 15 to 20 foot elevation change going up to the base of those poles and those are probably 30 to 40 feet tall. So, you're looking at probably 50 to 70 feet to the top of that pole from the actual base of our site, so you're looking at very similar heights. And, then if you look at this one here, the high voltage poles from LES are estimating somewhere between 80 & 100 feet tall so we would obviously be lower than that.

Mr. Camp: What's the diameter of your poles?

Mr. Dill: On this one, this particular one would be between 24 & 36 inches. I can't give you an exact because we, sometimes we have to use different type poles and I'm not sure which exact pole we would use on this one. That's more of a construction issue than an RF.

Mr. Camp: Is the monopole so there's no guidewires or anything?

Mr. Dill: No sir.

Mr. Camp: And, how, what would be the diameter of the high voltage power poles there?

Mr. Dill: Oh, I would say probably similar, probably in the 24 to 36 inch range. I can't tell you for sure. Closer to 24 inches.

Karen Blessen, 705 Y Street: I own a home at 705 Y Street and also own three other properties in the North Russian Bottoms. I'm a member of the North Bottoms Neighborhood Assn. as well as a member of the North Bottom Focus Area Team. Our team works with Wynn Hjermstad in the Urban Development Dept. to create a neighborhood revitalization strategy for the North Bottoms. I'm opposed to the placement of the Qwest tower on the property of Capital Steel at 9th & W Street. A letter sent to the City Council by our Association president, Cheryl Burbach, details the options available to Qwest for alternative placement. If any of you don't have a copy of that letter I have original copies with me. I have more comments. The placement of the cell tower against the wishes of the neighborhood is the latest example of issues in which the clear position of the residents of the North Bottoms has been ignored. There's been the approval of the construction of the baseball field which will increase noise and traffic in our neighborhood. We've seen a lack of commitment enforcing basic safety and code regulations. We put up with the crowds of football fans on game days and now there's the issue of cell tower. Right after that we're going to be facing a request by Capitol Steel for abandonment of X Street. The refusal to acknowledge the wishes of the neighborhood residences has created an imbalance. Regarding the cell tower on one side, Qwest, Capitol Steel, and football fans all benefit financially as well as with improved cell phone reception. On our side, the North Bottom residents, we see our view blemished by the site of this tower as well as real and perceived property values diminishing. In conversations with Qwest representatives, Corby Dill and Jill Bazell regarding their role as good corporate citizens and good neighbors, their responses at Qwest didn't have to do anything. The two Qwest representatives promised to have either an attorney or public relations person call me. I've not heard from anybody. Meanwhile, throughout the country a precedent has been set by other cell phone companies to work hard and to make widespread gestures to be good neighbors. For example the town of Gastonia, North Carolina was granted \$15,000 a year and 50% of payment is another cellular provider co-locates on their tower. Their community will receive \$80,000 a year for the five towers they've approved. The City of Lincoln and our neighborhood could have benefitted by working with Qwest for placement on a City location, but it was vetoed. The University and the City have veto rights, our neighborhood doesn't have the ability to veto except through our appeal to you, the City Council. We would appreciate your support. Those of us residents of the North Bottoms who treasure the unique architectural and historic nature of our neighborhood would like to see the City of Lincoln, our corporate neighbors, and the University behave like good neighbors and get in the trenches with us to work together to build the North Bottoms into the unique, historic jewel and asset to Lincoln that it could be. Any questions?

Mr. Camp: Karen, we had had this postponed. We had gotten Cheryl's letter and I know there was, I believe, a change in personnel with Qwest and so forth, have new representatives visited with you since that was brought forward?

Ms. Blessen: Well, I visited with Corby and Jill last Tuesday night and we discussed the various options. I'm not sure I'm understanding your question.

Mr. Camp: Well no, number one I wanted to establish whether or not they had visited with you because we had asked them to do so, so that part was done and from based on your testimony it sounds like there's no

progress from your standpoint and the associations?

Ms. Blessen: No, the association stands opposed to the placement. If it's inevitable we would like to have some kind of assurance that Qwest will work with the neighborhood to try to even out this balance so that they can work with us to improve this neighborhood. We're not opposed to corporate neighbors, but we want good neighbors. They offered, at one point, there was an offer of \$500 to do some landscaping and frankly that's an insult because \$500 would buy maybe four or five shrubs and wouldn't even involve a maintenance contract. So, we're just, we're asking for either a fresh look at a new placement and maybe the City would like to work a deal for a placement or to ask everybody to agree to be good neighbors with us.

Annette McRoy, Council Member: Thanks for coming down it's good to see you again. While I understand it's evitable that we probably have to vote on this today, I as a Council person just because there's light poles, existing poles in the area doesn't make it right to add one more to it even though it is industrial zoned. That's just my personal feelings. As district representative I went down there, drove around, unfortunately I missed the meeting, was notified late about the meeting, but I guess overall I understand, you know, there's FCC regulations we have to follow. We have our own ordinance write in order to facilitate cell tower placements and conditions, but just because it fits all the criteria in putting it in the area that's already stressed that we're trying to revitalize morally doesn't make it right. And, so I guess that's, I understand the reasonings and we do have a legal right to grant them placement, but it doesn't make me comfortable or happy to have to, you know, the bigger picture. When you start looking at block by block in the neighborhood and you live down there usually, because there's some law or legal precedent, or FCC doesn't make it easier to swallow so I understand the neighborhoods concern. There's not a lot Qwest probably can do, you know, and we can't force them to do anything with the landscaping. That'd be an illegal condition. It would be nice if they volunteered on their own to do a little bit more, but they don't have to and I understand that and I'm asking them to do that. But, I do understand from just, you know, being a resident, I'm not a neigh, resident down there, but I understand what you guys are talking about. There's not a lot we can do.

Mr. Fortenberry: I'm going to ask Planning something, but if you'll standby I'd appreciate it, I might have a question for you, thank you. Tell me your name again, I'm sorry I missed it.

Ms. Blessen: Karen Blessen, B-l-e-s-s-e-n.

Mr. Fortenberry: Thank you. Jennifer what is the typical expenditure of implementing the landscaping requirements around a cell tower such as this?

Jennifer Dam, Planning Dept.: Boy, it could really vary depending upon the number of trees that are required around the base.

Mr. Fortenberry: Let's have some standard ...

Ms. Dam: Typically there's four to six trees that would be required and the trees would vary in price depending on the nursery stock from one to \$200.00 a tree.

Mr. Fortenberry: Although it can't be forced as it's been pointed out, one idea that I thought did have and Ms. Blessen made some reference to it was that since a landscape waiver is being request perhaps those monies that would have been spent on the project could have been better placed within the neighborhood to help offset some of the aesthetic impact. Has that issue been discussed more than the brief mention that I just heard?

Ms. Dam: Yes it has. In fact, Planning Staff recommendation initially included a recommendation that the monies be spent on landscaping in a different portion of the neighborhood. The City Attorney's office informed us that we could not make that a condition of approval so that was stricken from the Resolution and the Staff report has a recommendation.

Mr. Fortenberry: Well, that doesn't help.

Ms. Dam: Sorry.

Ms. Seng: My question was really right along that same line. If \$500.00 was not enough then I want to know how much was enough, but we can't be asking that right?

Ms. Dam: That's my understanding.

Ms. Seng: Thank you.

Mr. Shoecraft: In relation to FCC regulations from what you've seen or heard and also the, looking at the Fact sheet is there any ground for denial here in your opinion?

Dana Roper, City Attorney: No. None. I think they have met, we have stated the rules and they have complied with the rules and so when

you say any basis for denial I'm not sure that I'm seeing any legal basis that we could defend.

Ms. Seng: Dana, even though we cannot require that they pay any money that wouldn't, would not be illegal if they wanted to do that?

Mr. Roper: If they wanted to do that that would not be illegal, but we could not ...

Ms. Seng: We cannot require it.

Mr. Roper: We could not impose that.

Ms. Seng: Thank you.

Mr. Fortenberry: But, we could require the landscaping to be implemented, forego the waiving of it.

Mr. Roper: Correct. You could deny the waiver.

Mr. Shoecraft: We have to dig up rock.

Mr. Camp: Then in following up with that, I appreciate my colleagues questions there, what if, since we have the landscaping requirement and we're asking for waiver would it be more productive to say this is the requirement and, I'm not sure if we'd have to do some amendment on our part ordinance wise to say it can't be done in that vicinity or isn't practical that it'd be done at the nearest practical location. Is there something to that affect?

Mr. Roper: We'll have to take a look if that's a possibility or ... I'm not, I'm not thinking that it is, but I'll look at the wording of it.

Ms. Vinjamuri: Two things, first to the question raised by the citizen from the Neighborhood Assn. as to the location of other placement of this pole, our RF Engineer is here to answer those questions. I think we've gone over it with the Planning Dept. numerous times. Second is too, I think, what I'm hearing from this Council and I'm hearing from the Neighborhood Assn. is requiring Qwest to be good corporate citizens. First of all we aren't corporate citizens yet in that neighborhood and second Qwest does desire to be a good corporate citizen, but we are leery to the extent that that would be placed as an additional requirement or an implied requirement for our future applications. We are trying to establish a wireless network. Our communicator poles, I don't know if that evidence has been presented to this Council, but has been presented to Planning Dept. is one, is the slimmest pole going into Lincoln. It is the best equipment on the market right now. It is stealth. It can be hidden. Our equipment box is the smallest equipment box currently in the wireless industry. We have spent incredible sums of money buying this stealth equipment and this high grade equipment to alleviate the problems that we would have with Planning Departments and City Councils in placing wireless facilities. We understand your concerns. There are many good aspects of wireless communications for the neighborhood as well. And if you have any additional questions.

Mr. Shoecraft: Do you want to be a good corporate citizen someday? You desire to be a good corporate citizen someday. What we're used to here in Lincoln Nebraska is developers and neighborhoods coming together forming consensus and having good relationships. That's how Lincoln Nebraska works.

Ms. Vinjamuri: We certainly understand that.

Mr. Shoecraft: And, so that's why our desire was for the week delay in hopes that some resolution could come about and is still our desire that some good resolution will come about and we hope that someday you do become a good corporate citizen.

Ms. Vinjamuri: We would like to address just a moment more. We did have two meetings with the Neighborhood Assn. and it was a distinct impression of all the Qwest employees that the North Bottoms Neighborhood Assn. is not just with Qwest, but with many other developers who have come into the neighborhood prior to us. Many issues they have with this Council and other corporate citizens and it seems like Qwest was under the firing target at some of those issues. We understand that. This Council took great pains to pass the wireless ordinance. It is one of the most stringent in the country let alone this state. We have taken, it's taken ten and half weeks just to get the final vote on this let alone the months of preparation for making application. We do understand, we do desire to be a good corporate citizen, but we can also, we have to be reasonable and we're willing to be reasonable.

Mr. Shoecraft: I have a question for Jennifer. So, if we deny the waiver, the landscape the what happens?

Ms. Dam: There would be a requirement then that they would submit a landscape plan that would show the landscaping, the requirement, the design standard for landscaping for broadcast towers is a 70% screen around the base of the tower with ½ of the plant material growing to 35 feet in height. So, with this particular application approximately four trees ...

Mr. Shoecraft: And there is certain types of vegetation that can grow on this property. I see it all over Lincoln.

Ms. Dam: This, the design standards specifically requires deciduous and carnivorous trees and not shrubs. The design standards specifically requires trees deciduous and carnivorous trees to be installed. The ground in this area would probably be difficult to grow landscaping which is why Staff recommended approval to a waiver because we're concerned that the plant material wouldn't grow and you would end up with dead plant materials surrounding the base of a tower that would be less aesthetic than no plant material around the base of the tower.

Mr. Fortenberry: I think enough's been said. I was simply going to respond to give a little bit of background to, while we've kind of got a situation that's been amiss here. The neighborhood has for many years suffered the affects of, particularly during football Saturdays, of a lot of traffic and then the baseball stadium was an issued we had to work through with the neighborhood and there's, your right, are very unhappy because of the potential impact on them. However, through that there's been some silver linings, I believe, in that we've kicked off a neighborhood initiative to look at some real issues of Urban Development. That's why I think you're hearing your Council say it would be nice to, if some agreement could have been worked out with them. I had in the back of my mind, we can't require you to do this, but was hoping that some trade-off like Ms. Blessen and (inaudible) mentioned regarding landscaping could be worked out since that was obviously something that wasn't going to be an expenditure on your party anyway as part of this application. But here we are.

Mr. Camp: I'm wrestling with this, too. Jennifer a while back with concerns of the North Bottoms Assn. there was going to be, and I think this goes back to billboards and a host of other factors, there was going to be a, I've forgotten the name of the study we call it with Planning where we target,

Mr. Fortenberry: Focus area.

Mr. Camp: focus area, thank you.

Ms. Dam: There's a focus area plan has been initiated by Urban Development.

Mr. Camp: And is that developing well?

Ms. Dam: It's being initiated by the Urban Development Dept. A focus area team is being put back together as we speak. I'm not sure if the first meeting of that has been established or not, but that effort is being headed up by the Urban Development Dept. I believe they've had several meetings with the North Bottoms Neighborhood Assn. and it is under way.

Mr. Camp: With that in mind with our colleagues on the Council I think I'm trying to grasp too, as several of you are, on the waiver of the landscaping standards and it looks like we've got good intentions on a lot of parties here. Dana, is there a way if we didn't give that waiver on the landscaping standards that we could be reapproached later and with an alternative to do a similar expenditure just because say it doesn't make much sense there?

Mr. Roper: I would understand that you could. I think the feeling is that if, I don't know what the nearest available alternative site for landscaping is. If you could show that that indeed and truly does visually impact the neighborhood then maybe that is a possibility of requiring it in that location. If you can't we can't just say take this money and go do good things in the neighborhood with trees and bushes and shrubs. There's got to be a more direct correlation there, but if you're asking me if we turn this down today or at least deny the waiver if they could come back and seek some sort of amendment, yes. But, the permit itself I'm not sure I see an ability to deny the permit, but you could require the permit without the granting of the waiver.

Mr. Camp: I guess I want to try to be practical on this and not, you know, waste monies and yet seeing the site and reviewing the pictures today there seems like there ought to be a better way than doing that. We're kind of self-defeating these folks with, Qwest put forth a lot of effort. The neighborhood has also put up with a lot. We can't always tie those together. Do you have any suggestions for us based upon some of the questions I've asked you?

Mr. Roper: We can always talk, but poor Qwest has been talked and talked to for a long period of time. I mean, we can have a quick 15 minute discussion and see if there's anything we can work out.

Mr. Shoecraft: Let's move forward and either grant the permit and waive the landscape or not waive the landscape because we've heard enough.

Cindy Johnson, Council Member: I don't know if the situation is if we're going to chose to deny this and we have not even seen what they're

doing on the other sites and why this one was chosen over those other sites I don't know that we can honestly state what you were saying to deny or to approve. We're just assuming because we haven't talked to you personally about the other sites that you've looked at so if I could have the tech, your person come up and talk to us about why this sites the only site.

Ms. Vinjamuri: (inaudible) also provided all of that information to the Planning Dept. We'd be happy to provide it again maybe that ...

Ms. Johnson: Could you briefly go over why this was the best site?

Mr. Dill: Yeah. I'd like to point out that I also during the meetings with the Neighborhood Assn. did discuss literally every structure over 10 feet tall in the entire downtown, you know, 10 block radius or approximately of this area. Just to give you an idea what got us to this spot, your ordinance is written so that you like us to co-locate on things. You like us to use existing structures and go with them. I would rather do that because then I don't have to fight, you know, we don't have to come up and have discussions like this and so it's easier for you and it's easier for me. When we initially started in this area we knew we needed a site somewhere in the vicinity. I come out and I do testing that kind of narrows down to our surcharging. As to, there's other sites in the area, I need those to work with this site and I have specific objectives that I want this site to cover and areas that I don't want this site to cover. So, I test and I get my surcharging then I go to our real estate people and they go out and send out feelers on where we can actually get leased land. They come back to me, I test those areas again and then we go to the Planning Dept. and we discuss it with them and they say this site would be a terrible site to try to zone, this site would be a preferred location, things like that. During this process we tested the billboards in the area. We were in discussions with LES on the large power poles that couldn't be worked out. The billboards were a political issue in the first place. We would have had to extend it off of those billboards which would have given you our pole as opposed to being off to the side would have stuck our equipment right in the view of the stadium and of the Capitol and would not have given me the desired outcome as far as what I needed from an engineering perspective. When all these factors are considered and from my point of view the engineering factor's the deciding one. The Capitol Steel site was the best site. It gives me the coverage I need in the areas that I needed. It does not give me coverage in the areas that I don't want it to prevent interference and things like that and it was a preferred site for the Planning Dept. by the ordinance. So, when I decided on that site we all kind of thought hey this is a great thing although we can't co-locate where we want to and we were even, the Planning Commission even tested the scoreboard at Memorial Stadium which I thought would have been a great thing both from a political point of view and just because it would have gotten our pole out of there it just didn't work and there's nothing I can do to make signals fly in the areas I want them to go.

Ms. Johnson: What happened with LES?

Mr. Dill: LES, we ran into the main issues with the way I saw them were those high voltage power lines through there. If our equipment is too close to them that causes problems. If it causes problems for us and for them if I go below their wires then I don't get enough height. If I go above them then we get into maintenance issues or as they don't want to maintain our equipment and we certainly don't want to maintain our equipment next to our high voltage power lines and I don't think they want us doing that. So, we haven't ruled out the possibility of something in the future on different areas where there might be different type of poles or something, but in this particular area it just wouldn't work.

Ms. Vinjamuri: Just one final thing. It was initial offer made we don't want you to think that Qwest has absolutely never tried to negotiate with the Neighborhood Assn. and certainly I don't have the authority at this point to do that, but we had shown initial initiative on it I think. The request that we had response were never anything that we could reasonably, at this time do. And, secondly if for some reason this body decides to hold this over again we think under the Telco Act if you could consider that that would be an unreasonable delay that we've been 10 ½ weeks and four public hearings on this matter we would just request to that extent that it be put in writing with substantial evidence of why that is happening.

Mr. Fortenberry: I was just going to ask one more question. I believe we asked it the last time or maybe I had asked it to the Staff privately I don't recall, but the City's new 911 tower which is five blocks away, is that a test site as well?

Mr. Dill: Yeah. The old one was up to the west of I-180 correct?

And, the new one is to the north correct? Yeah. Those areas were both tested and for various reasons would not have worked for us. We also considered the ball park lights, the new ball park lights and some other areas, but they needed to be on the side of 180. It was just kind of a rough thing. That's pretty much ...

This matter was taken under advisement.

APPROVING AN AGRMT. BETWEEN THE CITY, EMERGENCY MEDICAL SERVICES INC., ST. ELIZABETH COMMUNITY HEALTH CENTER & BRYAN-LGH MEDICAL CENTER TO PROVIDE MEDICAL OVERSIGHT FOR AMBULANCE SERVICE FOR A PERIOD OF 4 YRS. - Deputy Clerk: And I do understand there's been a request for delay on this for one week.

Mr. Roper: Yes. We'll, you can say one week it may be longer, but the hospitals have sent over a request for some insertion of languages that we just got Friday and I think there are about 24 of them and we will do what we can to try and have it to you by next Monday, but we'll see.

Mr. Shoecraft: One week.

Ms. Johnson: Do you want to move that now or do you want to wait? I'll move that we delay this a week.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

This matter was taken under advisement.

#### ORDINANCES - 3RD READING

CHANGE OF ZONE 3273 - APP. OF SOUTH RIDGE VILLAGE L.L.C. & KRUEGER DEVELOPMENT INC. FOR A CHANGE FROM O-3 OFFICE PARK TO R-3 RESIDENTIAL & FROM R-3 RESIDENTIAL TO O-3 OFFICE PARK ON PROPERTY GENERALLY LOCATED BETWEEN S. 28TH ST. & S. 29TH ST. ALONG PORTER RIDGE ROAD - DEPUTY CLERK read an ordinance, introduced by Coleen Seng, amending the Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the third time.

SENG Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17724**, is recorded in Ordinance Book 24, Page

VACATING THE NORTH-SOUTH ALLEY NORTH OF "N" ST. BETWEEN 13TH & 14TH STS. - PRIOR to reading:

SENG Moved to place Bill 00-154 on Pending until money is received.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

DEPUTY CLERK read an ordinance, introduced by Annette McRoy, vacating north-south alley north of "N" St. between 13th & 14th Sts., & retaining title thereto in the City of Lincoln, Lancaster County, Nebraska, the third time.

AMENDING SEC. 2.62.200 OF THE LMC RELATING TO POLICE & FIRE PENSION PLAN "A" TO PROVIDE MEMBERS OF POLICE & FIRE PENSION PLANS "B" & "C" THE OPPORTUNITY TO PARTICIPATE IN POLICE & FIRE PENSION PLAN "A" - DEPUTY CLERK read an ordinance, introduced by Coleen Seng, amending Chapter 2.62 of the LMC relating to the Police & Fire Pension Plan - Plan "A" by amending Sec. 2.62.200 to provide members of Police & Fire Pension plans "B" & "C" the opportunity to elect to participate in Police & Fire Pension Plan A subsequent to the implementation of the deferred retirement option plan; & repealing Sec. 2.62.200 of the LMC as hitherto existing, the third time.

SENG Moved to pass ordinance as read.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered **#17725**, is recorded in Ordinance Book 24, Page

APPROVING AN EXTENSION OF THE CABLE TELEVISION FRANCHISE BETWEEN THE CITY & AOL/TIME WARNER, INC. FOR 60 DAYS BEYOND THE FRANCHISE EXPIRATION OF SEPT. 15, 2000 - DEPUTY CLERK read an ordinance, introduce by Annette McRoy, WHEREAS the city of Lincoln is in the process of negotiating a renewal of the cable television franchise with AOL Time Warner Inc; and WHEREAS, the current cable television franchise held by AOL Time Warner Inc. expires on Sept. 15, 2000; and WHEREAS, the City and AOL Time Warner Inc. need some additional time to determine if a franchise agreement can be reached, the third time.

MCROY Moved to pass ordinance as read.

Seconded by Cook & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

The ordinance, being numbered #17726, is recorded in Ordinance Book 24, Page

**SPECIAL PERMITS & USE PERMITS**

SPECIAL PERMIT 1846 - APP. OF U.S. WEST WIRELESS L.L.C. TO CONSTRUCT A 78' WIRELESS TELECOMMUNICATIONS TOWER ON PROPERTY GENERALLY LOCATED AT 9TH & "W" STS. & WAIVING THE LANDSCAPING & FALL ZONE REQUIREMENTS - PRIOR to reading:

FORTENBERRY Moved to have an amendment to Bill #00R-232 requiring landscaping. Seconded by Camp & carried by the following vote: AYES: Camp, Fortenberry, McRoy, Seng, Shoecraft; NAYS: Cook, Johnson.

DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80392 WHEREAS, U.S. West Wireless, L.L.C. has submitted an application designated as Special Permit No. 1846 for authority to construct a 78' tall wireless telecommunications tower and a waiver of the landscaping requirements on property located at North 9th and "W" Streets, and legally described to wit:

A portion of the "W" Street right-of-way vacated by Ordinance 11702 that lies east of the 9th Street right-of-way and is adjacent to Lot 7, Block 7, North Lincoln Addition and adjacent to the Burlington Northern Railroad right-of-way, in the Northeast Quarter of Section 23, Township 10 North, Range 6 East, Lincoln, Lancaster County, Nebraska, more specifically described as :

Referring to the southwest corner of said triangle portion of vacated "W" Street; thence northeasterly north 52 degrees 59 minutes 23 seconds east, 18.32 feet to the point of beginning; thence northerly north 01 degrees 54 minutes 31 seconds west, 11 feet; thence northeasterly north 52 degrees 59 minutes 23 seconds east, 15 feet; thence southeasterly south 37 degrees 00 minutes 37 seconds east, 9 feet; thence southwesterly south 52 degrees 59 minutes 23 seconds west, 21.33 feet to the point of beginning;

WHEREAS, the real property adjacent to the area included within the site plan for this telecommunications tower will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of U.S. West Wireless, L.L.C., hereinafter referred to as "Permittee", to construct a 78' tall wireless telecommunications tower, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.225 of the Lincoln Municipal Code upon condition that construction and operation of said wireless telecommunications tower be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves a 78' tall wireless communications facility for a period of 15 years.

2. The requirement of Section 27.68.110(g) of the Lincoln Municipal Code for a fall zone is hereby waived.

3. The requirement of the Design Standards for landscaping is hereby waived provided that the landscaping is provided in a different location.

4. Before receiving building permits the Permittee must provide evidence to the Planning Department office for review and approval that the proposed tower meets all FAA, state, and local aviation requirements.

5. Before operating this personal wireless facility all development and construction must conform to the approved plans.

6. The personal wireless service provider shall comply at all times with the current applicable FCC and FAA standards and regulations, and any of those of other agencies of the federal government with authority to regulate towers and antennas.

7. All privately-owned improvements, including landscaping, must be permanently maintained by the owner.

8. The site plan approved by the permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location

of parking and circulation elements, and similar matters.

9. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.

10. The Permittee shall, within 10 days of written demand, reimburse the City for all direct and indirect costs and expenses as provided in Section 27.68.090 of the Lincoln Municipal Code, in connection with the issuance and review of this permit.

11. The Permittee agrees that the Permittee, its successors and assigns, shall at its sole cost and expense, indemnify and hold harmless the City, its officers, officials, boards, commissions, agents, representatives, and employees against any and all claims, suits, losses, expenses, causes of actions, proceedings, and judgments for damage arising out of, resulting from or alleged to arise out of or result from the construction, operation, repair, maintenance, or removal of the provider's facilities. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as costs of suit and defense and reasonable attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney's office and any employees of the City and any consultants retained by the City.

12. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, Seng, Shoecraft; NAYS: McRoy.

SPECIAL PERMIT 1841 - APP. OF L. W. HOFFMAN, ON BEHALF OF ANDERSON FORD, TO DISPLAY AUTOMOBILES FOR SALE IN THE FRONT YARD & REAR YARD, WITH A REQUEST TO WAIVE THE LANDSCAPE REQUIREMENTS ON PROPERTY GENERALLY LOCATED AT 29TH & CORNHUSKER HWY. (8/7/00 - ADOPTED, A-80328; 8/14/00 - RECONSIDERED; PLACED ON PENDING, 6-0) - PRIOR to reading:

COOK Moved to accept Substitute Resolution #2.

Seconded by Fortenberry & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

DEPUTY CLERK read the following resolution, introduced by Jonathan Cook, who moved its adoption:

A-80405 WHEREAS, L.W. Hoffman, on behalf of Anderson Ford, has submitted an application designated as Special Permit No. 1841 for authority to store vehicles for sale in the front yard and rear yard and to accept the existing landscaping as the minimum landscape requirements for such use on property located at 29th and Cornhusker Highway, and legally described to wit:

Spilker's First Addition, Lot 1, except 89 square feet on the southwest corner for right-of-way, in Section 7, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska;

WHEREAS, the real property adjacent to the area included within the site plan for this vehicle storage in the front yard will be adversely affected, but the real property adjacent to the area included within the site plan for this vehicle storage in the rear yard will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That that portion of the application of L.W. Hoffman, on behalf of Anderson Ford, hereinafter referred to as "Permittee", to store vehicles for sale in the rear yard and to accept the existing landscaping as the minimum requirements for such use, on the property legally described above, be and the same is hereby granted under the provisions of Section 27.63.700 of the Lincoln Municipal Code upon condition that operation of said vehicle sales lot be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:



1. Vehicles stored for sale and resale in the rear yard must be stored on the existing pavement and said storage is limited to ten vehicles.
2. The hood or trunk or both shall not be left open on the stored vehicles for sale and resale except when the vehicle is inspected by a customer or being serviced.
3. If the use of the premises is changed from vehicle sales, this special permit shall not be considered an adjustment or waiver of the standards for a parking lot nor shall the area be considered a nonconforming parking lot.
4. Before storing vehicles for sale or resale the construction plans must conform to the approved plans.
5. All privately-owned improvements, including landscaping, shall be permanently maintained by the owner.
6. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
7. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, his successors, and assigns. The building official shall report violations to the City Council which may revoke the special permit or take such other action as may be necessary to gain compliance.
8. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving the special permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.
9. The approval of this special permit voids and supersedes Special Permit 1734 to sell alcoholic beverages.
10. The foundation plantings around the building are not required by this special permit.

Introduced by Jonathan Cook

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Shoecraft; NAYS: Johnson, McRoy, Seng.

USE PERMIT 100A - APP. OF SOUTH RIDGE VILLAGE L.L.C. & R.C. KRUEGER DEVELOPMENT INC. TO AMEND THE BOUNDARIES OF SOUTH RIDGE VILLAGE TO ALIGN WITH THE O-3 OFFICE PARK DIST. BOUNDARY & TO ADJUST THE LOCATION OF THE REQUIRED LANDSCAPE SCREEN FROM THE OFFICE PARK PROPERTY TO THE RESIDENTIAL PROPERTY TO THE SOUTH, ON PROPERTY GENERALLY LOCATED NORTH OF PORTER RIDGE RD. BETWEEN S. 28TH & S. 29TH ST. & EAST OF S. 29TH ST. (IN CONNECTION W/00-153) - DEPUTY CLERK read the following resolution, introduced by Annette McRoy, who moved its adoption:

A-80406 WHEREAS, South Ridge Village, L.L.C. and R.C. Krueger Development, Inc. have submitted an application in accordance with Section 27.27.080 of the Lincoln Municipal Code designated as Use Permit No. 100A for authority to amend the boundaries of South Ridge Village to align with the O-3 Office Park District boundary and to adjust the location of the required landscape screen from the office park property to the residential property to the south on property generally located north of Porter Ridge Road between South 28th and South 29th Streets, and east of South 29th Street, and legally described to wit:

A portion of the Northwest Quarter of Section 19, Township 9 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska, more particularly described as follows:

Commencing at the southwest corner of Lot 1, Block 1, Porter Ridge West 4th Addition; thence easterly north 89 degrees 57 minutes 36 seconds east along the south line of Lot 1, Block 1, Porter Ridge West 4th Addition, a distance of 434.14 feet to the southeast corner of said Lot 1, Block 1, Porter Ridge West 4th Addition; thence northerly north 00 degrees 06 minutes 48 seconds east along the east line of Lot 1, Block 1, Porter Ridge West 4th Addition, a distance of 593.72 feet to the true point of beginning; thence around a curve in a counterclockwise direction having a delta angle of 09 degrees 21 minutes 39 seconds, an arc distance of 24.51 feet, a radius of 150.00 feet, and a chord of north 85 degrees 12 minutes 49 seconds west, said line being the centerline of Porter Ridge Road, a distance of 24.48 feet; thence westerly north 89 degrees 53 minutes 38

seconds west along the centerline of Porter Ridge Road, a distance of 31.02 feet; thence northerly north 00 degrees 00 minutes 00 seconds west, a distance of 171.60 feet; thence easterly north 86 degrees 04 minutes 01 seconds east, a distance of 8.57 feet to a point of curvature; thence around a curve in a counterclockwise direction having a delta angle of 08 degrees 20 minutes 24 seconds, an arc distance of 87.34 feet, a radius of 600.00 feet, and a chord of north 81 degrees 53 minutes 48 seconds east, a distance of 87.26 feet to a point of tangency; thence easterly north 77 degrees 36 minutes 59 seconds east, a distance of 145.40 feet; thence easterly north 75 degrees 58 minutes 33 seconds east, a distance of 184.34 feet to a point of curvature; thence around a curve in a clockwise direction having a delta angle of 04 degrees 47 minutes 49 seconds, an arc distance of 50.23 feet, a radius of 600.00 feet, and a chord of north 78 degrees 22 minutes 27 seconds east, a distance of 50.22 feet to a point of tangency; thence easterly north 80 degrees 46 minutes 22 seconds east, a distance of 159.86 feet to a point of curvature; thence around a curve in a counterclockwise direction having a delta angle of 32 degrees 19 minutes 31 seconds, an arc distance of 70.52 feet, a radius of 125.00 feet, and a chord of north 64 degrees 36 minutes 36 seconds east, a distance of 69.59 feet to a point of tangency; thence northeasterly north 48 degrees 26 minutes 51 seconds east, a distance of 124.88 feet to a point of curvature; thence around a curve in a counterclockwise direction having a delta angle of 04 degrees 26 minutes 15 seconds, an arc distance of 38.73 feet, a radius of 500.00 feet, and a chord of south 43 degrees 46 minutes 17 seconds east, a distance of 38.72 feet; thence easterly south 45 degrees 59 minutes 24 seconds east, a distance of 94.58 feet; thence northeasterly north 44 degrees 00 minutes 36 seconds east, a distance of 218.74 feet to a point of curvature; thence around a curve in a counterclockwise direction having a delta angle of 68 degrees 47 minutes 18 seconds, an arc distance of 150.07 feet, a radius of 125.00 feet, and a chord of north 09 degrees 36 minutes 57 seconds east, a distance of 141.22 feet; thence northwesterly north 24 degrees 46 minutes 42 seconds west, a distance of 243.10 feet to a point of curvature; thence around a curve in a counterclockwise direction having a delta angle of 69 degrees 06 minutes 18 seconds, an arc distance of 150.76 feet, a radius of 125.00 feet, and a chord of north 30 degrees 40 minutes 09 seconds east, a distance of 141.79 feet to a compound curvature; thence around a curve in a counterclockwise direction having a delta angle of 09 degrees 17 minutes 35 seconds, an arc distance of 97.32 feet, a radius of 600.00 feet, and a chord of north 08 degrees 31 minutes 48 seconds west, a distance of 97.21 feet; thence northerly north 13 degrees 10 minutes 35 seconds west, a distance of 2.74 feet; thence around a curve in a clockwise direction having a delta angle of 12 degrees 17 minutes 42 seconds, an arc distance of 201.71 feet, a radius of 940.00 feet, and a chord of north 82 degrees 58 minutes 15 seconds east, said line being 60.00 feet southeast of and parallel to the centerline of right-of-way for Pine Lake Road, a distance of 201.32 feet; thence southerly south 10 degrees 08 minutes 34 seconds west, along the east line of Outlot "A", South Ridge Village 6th Addition, a distance of 231.40 feet to the southwest corner of Lot 2, South Ridge Village 1st Addition; thence southeasterly south 54 degrees 59 minutes 18 seconds east, a distance of 77.00 feet to the southwest corner of Lot 3, South Ridge Village 1st Addition; thence southerly south 00 degrees 02 minutes 43 seconds east along the east line of Outlot "A", South Ridge Village 6th Addition, a distance of 435.49 feet to the southwest corner of Lot 10, South Ridge Village 1st Addition; thence easterly north 89 degrees 57 minutes 17 seconds east along the south line of Lot 10, South Ridge

Village 1st Addition, a distance of 20.00 feet; thence southerly south 00 degrees 02 minutes 43 seconds east along the west line of Lot 2, Porter Ridge 3rd Addition, a distance of 70.00 feet; thence southwesterly south 79 degrees 12 minutes 30 seconds west along the south line of Outlot "A", South Ridge Village 6th Addition, a distance of 306.11 feet to a point on the centerline of South 29th Street; thence southeasterly south 50 degrees 14 minutes 26 seconds east along the centerline of South 29th Street, a distance of 7.66 feet to a point of curvature; thence around a curve in a clockwise direction having a delta angle of 02 degrees 01 minutes 47 seconds, an arc distance of 18.60 feet, a radius of 525.00 feet, and a chord of south 49 degrees 13 minutes 33 seconds east, said line being the centerline of South 29th Street, a distance of 18.60 feet; thence southwesterly south 67 degrees 17 minutes 26 seconds west along the south line of Outlot "A", Porter Ridge West 4th Addition, a distance of 255.17 feet; thence westerly south 82 degrees 50 minutes 00 seconds west along the south line of Outlot "A", Porter Ridge West 4th Addition, a distance of 519.87 feet; thence southwesterly south 41 degrees 04 minutes 27 seconds west along the south line of Outlot "A", Porter Ridge West 4th Addition, a distance of 131.69 feet to a point of curvature on the centerline of Porter Ridge Road; thence around a curve in a counterclockwise direction having a delta angle of 31 degrees 26 minutes 04 seconds, an arc distance of 82.51 feet, a radius of 150.00 feet, and a chord of north 64 degrees 48 minutes 57 seconds west, said line being the centerline of Porter Ridge Road, a distance of 81.27 feet to the point of beginning and containing a calculated area of 344,207.85 square feet or 7.90 acres, more or less;

WHEREAS, the real property adjacent to the area included within the site plan for this realignment of the boundaries of South Ridge Village and the location of the landscape screening will not be adversely affected; and

WHEREAS, said site plan together with the terms and conditions hereinafter set forth are consistent with the intent and purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and general welfare.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the application of South Ridge Village, L.L.C. and R.C. Krueger Development, Inc., hereinafter referred to as "Permittee", to amend the boundaries of South Ridge Village to align with the O-3 Office Park District boundary and to adjust the location of the required landscape screen from the office park property to the residential property to the south on the property legally described above be and the same is hereby granted under the provisions of Section 27.27.080 of the Lincoln Municipal Code upon condition that construction and operation of said South Ridge Village be in strict compliance with said application, the site plan, and the following additional express terms, conditions, and requirements:

1. This permit approves the development of 100,000 square feet of office uses in the area north of the residential lots on the north side of Porter Ridge Road between South 28th Street and South 29th Street and running east and north between the H-4 area at the corner of South 29th Street and Pine Lake Road and the residential uses along the west side of South 30th Street.

2. The City Council must approve Change of Zone 3239 to align the boundaries within South Ridge Village.

3. An adjustment to the Design Standards for Zoning Regulations for Landscaping and Screening is hereby approved to allow the screening and landscaping to be located on the residential lots along the north side of Porter Ridge Road.

4. Before receiving building permits:

- a. The Permittee must submit a revised and reproducible final plan of the entire use permit area.
- b. Individual site plans, including design of sanitary sewer and water systems, grading and drainage plans, and landscape plans for each building envelope must be approved by the City.
- c. All signs and landscaping shall be located outside of

the initial sight triangle at all intersections and driveways.

- a. The construction plans must conform to the approved plans.
- e. Final plats within South Ridge Village must be approved by the City.

5. Before occupying any of this development all development and construction must be completed in conformance with the approved plans.

6. All privately-owned improvements except the screening and landscaping to be located on the residential lots along the north side of Porter Ridge Road must be permanently maintained by the Permittee or an appropriately established property owners association approved by the City Attorney.

7. The site plan approved by this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.

8. The terms, conditions, and requirements of this resolution shall be binding and obligatory upon the Permittee, its successors and assigns. The building official shall report violations to the City Council which may revoke this use permit or take such other action as may be necessary to gain compliance.

9. The Permittee shall sign and return the City's letter of acceptance to the City Clerk within 30 days following approval of this use permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The City Clerk shall file a copy of the resolution approving this use permit and the letter of acceptance with the Register of Deeds, filing fees therefor to be paid in advance by the Permittee.

Introduced by Annette McRoy

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

#### PETITIONS & COMMUNICATIONS

##### THE FOLLOWING APPLICATIONS WERE REFERRED TO THE PLANNING DEPT.:

Change of Zone 3263 - App. of Pioneer Woods LLC, Don Linscott from B-1 to B-2 & R-3 to O-3 at NE corner of 70<sup>th</sup> & Pioneers Blvd.

Change of Zone 3283 - App. of Tabitha Housing Corp. for a text change to Lincoln Municipal Code Secs. 27.11.040; 27.13.040; 27.15.040; 27.17.040 & 27.019.040 to add adult care facilities & Chapter 27.63.030 to provide special limits for adult care facilities in R-1, R-2, R-3, R-4, & R-5 zoning districts.

Use Permit No. 130 - App. of Pioneer Woods, LLC for 160,000 sq. st. of commercial/retail restaurant & 160,000 square feet of office space at corner of 70<sup>th</sup> & Pioneers Blvd.

Special Permit No. 1826 - App. of August J. Piazza to allow a domiciliary care facility & housing for the elderly located at 4444 S. 56<sup>th</sup> Street.

Special Permit No. 1871 - App. of Nebraska Assn. of County Officials for office space at NW corner of 14<sup>th</sup> & G St in conjunction w/Change of Zone #3259 & Text Change App. #3275.

Special Permit No. 1872 - App. of Jay Miller for a secondary structure for domestic employee at 10050 Yankee Hill Rd.

Special Permit No. 1874 - App. of Duane Hartman Investments to increase height of cellular tower & co-locate at 615 W Prospector Court.

Special Permit No. 1851A - App. of Tabitha Housing Corp. for an adult daycare facility at 22 S. 48<sup>th</sup> St.

#### REPORTS TO CITY OFFICERS

CLERK'S LETTER & MAYOR'S APPROVAL OF ORDINANCES & RESOLUTIONS PASSED ON AUG. 21, 2000 - DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk.

INVESTMENT OF FUNDS - DEPUTY CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-80403 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed & approved, & the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning 08/25/00)

Introduced by Coleen Seng

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

INVESTMENT OF FUNDS - DEPUTY CLERK read the following resolution, introduced by Coleen Seng, who moved its adoption:

A-80404 BE IT HEREBY RESOLVED BY THE CITY COUNCIL of the City of Lincoln, Nebraska:

That the attached list of investments be confirmed & approved, & the City Treasurer is hereby directed to hold said investments until maturity unless otherwise directed by the City Council. (Investments beginning 09/01/00)

Introduced by Coleen Seng

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REPORTS FROM CITY TREASURER OF TELECOMM. OCC. TAX DUE FOR THE MONTH OF JULY, 2000 FROM: COAST INT'L, EXCEL, MCI, MCLEOD USA, BROADWING, IBM GLOBAL, NEBRASKA TECHNOLOGY, WORKING ASSETS, ALIANT COMM., ALIANT CELLULAR, AT&T, AIRTIME SMR, LINCOLN CELTELCO, TELCO, SPRINT SPECTRUM, SPRINT COMM., USA PAGING, INTELLICALL DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk.

REPORT OF LINCOLN WATER & WASTEWATER SYSTEM RECAPITULATION OF DAILY CASH RECEIPTS FOR AUG., 2000 - DEPUTY CLERK presented said report which was placed on file in the Office of the City Clerk.

REQUEST OF PUBLIC WORKS TO SET THE HEARING DATE OF MONDAY, SEPT. 25, 2000 AT 5:30 P.M & PLACE ON THE FORMAL CITY COUNCIL AGENDA THE FOLLOWING:

00-163 To provide authority to create an Ornamental Lighting Dist. to construct lighting on Woods Ave. from South 33<sup>rd</sup> St. east to S. 38<sup>th</sup> St.

00-164 To provide authority to create an Ornamental Lighting Dist. to construct lighting on 25<sup>th</sup> St. from Van Dorn St. to High St.

DEPUTY CLERK requested the Public Hearing to be set for Monday, Sept. 25, 2000 at 5:30 p.m.

COOK So moved.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING THE DISTRIBUTION OF FUNDS REPRESENTING INTEREST EARNED ON SHORT-TERM INVESTMENTS OF IDLE FUNDS DURING THE MONTH ENDED JULY, 2000 - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80402 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That during the month ended July 31, 2000, \$223,402.90 was earned from short-term investments of "IDLE FUNDS". The same is hereby distributed to the various funds on a pro-rata basis using the balance of each fund and allocating a portion of the interest on the ratio that such balance bears to the total of all fund balances.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ACCEPTING THE REPORT REGARDING SCOTT TISTHAMMER'S TORT CLAIM AGAINST THE CITY & APPROVING THE DISPOSITION OF CLAIM SET FORTH. (ALL OTHER DISPOSITION OF CLAIMS FOR THE PERIOD OF AUG. 1-15, 2000 WERE ADOPTED ON 8/28/00) - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption.

Seconded by Johnson & **LOST** by the following vote: AYES: Camp, Fortenberry, Shoecraft; NAYS: Cook, Johnson, McRoy, Seng.

The resolution, having **LOST** was assigned File #38-4344 & was placed on file in the Office of the City Clerk.

#### OTHER RESOLUTIONS

APP. OF RT OMAHA FRANCHISE LLC DBA RUBY TUESDAY FOR A RETAIL CLASS I LIQUOR LICENSE AT 5508 S. 56TH ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80380 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the

pertinent City ordinances, the City Council recommends that the application of RT Omaha Franchise L.L.C. dba "Ruby Tuesday" for a Class "I" liquor license at 5508 South 56th Street, Lincoln, Nebraska, for the license period ending April 30, 2001, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MAN. APP. OF DOUGLAS BRYON DAIZE FOR RT OMAHA FRANCHISE LLC DBA RUBY TUESDAY FOR A RETAIL CLASS I LIQUOR LICENSE AT 5508 S. 56TH ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80381 WHEREAS, RT Omaha Franchise L.L.C. dba "Ruby Tuesday" located at 5508 South 56th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Douglas Bryan Daize be named manager;

WHEREAS, Douglas Bryan Daize appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Douglas Bryan Daize be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF HOLIDAY INN DOWNTOWN FOR A SPECIAL DESIGNATED LICENSE (SDL) TO COVER AN AREA MEASURING 145' BY 300' AT AMERITAS INVESTMENT CORP., 5900 "O" ST., ON SEPT. 30, 2000 FROM 8:00 A.M. TO 5:00 P.M. - PRIOR to reading:

SENG Moved to delay Public Hearing & Action for one week to 9/11/00.

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Johnson, McRoy, Seng; NAYS: Fortenberry, Shoecraft.

APP. OF IRIE INC. DBA DOC'S PLACE FOR A SDL TO COVER AN AREA MEASURING 96' BY 24' AT 201 N. 8TH ST. ON SEPT. 23, 2000 FROM 8:00 A.M. TO 1:00 A.M. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80382 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Irie Inc. d/b/a "Doc's Place" for a Special Designated License to cover an area measuring 96 feet by 24 feet at 201 North 8th Street, Lincoln, Nebraska, on the 23rd day of September, 2000, between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF IRIE INC. DBA DOC'S PLACE FOR A SDL TO COVER AN AREA MEASURING 96' BY 24' AT 201 N. 8TH ST. ON SEPT. 30, 2000 FROM 8:00 A.M. TO 1:00 A.M. -DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80383 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the

pertinent City ordinances, the City Council recommends that the application of Irie Inc. d/b/a "Doc's Place" for a Special Designated License to cover an area measuring 96 feet by 24 feet at 201 North 8th Street, Lincoln, Nebraska, on the day of September, 2000, between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF CORNHUSKER SQUARE LAND CO. DBA CORNHUSKER HOTEL FOR A SDL COVERING AN AREA AT THE GOVERNOR'S MANSION AT 1425 H ST. ON SEPT. 23, 2000 FROM 8:00 A.M. TO 1:00 A.M. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80384 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Cornhusker Square Land Co. dba Cornhusker Hotel for a Special Designated License to cover an area at the Governor's Mansion at 1425 H Street, Lincoln, Nebraska, on the September 23, 2000, between the hours of 8:00 a.m. and 1:00 a.m., be approved with the condition that the applicant and premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification shall be checked on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF TEPANTLA, INC. DBA MAZATLAN MEXICAN RESTAURANT FOR A RETAIL CLASS I LIQUOR LICENSE AT 211 N. 70TH ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80385 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Tepantla, Inc. dba "Mazatlan Mexican Restaurant" for a Class "I" liquor license at 211 North 70th Street, Lincoln, Nebraska, for the license period ending April 30, 2001, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MAN. APP. OF ABRAHM MORALES FOR TEPANTLA INC. DBA MAZATLAN MEXICAN RESTAURANT AT 211 N. 70TH ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80386 WHEREAS, Tepantla Inc. dba "Mazatlan Mexican Restaurant" located at 211 North 70th Street, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Abraham Morales be named manager;

WHEREAS, Abraham Morales appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of

Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Abrahm Morales be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF TAMY INC. DBA TAM O'SHANTER FOR AN ADDITION TO THEIR CLASS C LIQUOR LICENSE OF AN AREA MEASURING 20' BY 42' TO THE SOUTH AT 105 S. 25TH ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80387 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Tamy Inc. dba "Tam O'Shanter" to expand its licensed premises by the addition of an area measuring 20 feet by 42 feet to the south of the presently licensed premises located at 105 South 25th Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all City and State regulations.

BE IT FURTHER RESOLVED that the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF LAMBERT INVESTMENTS LLC DBA INN AT LINCOLN FOR A CLASS I LIQUOR LICENSE AT 5250 CORNHUSKER HWY. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80388 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Lambert Investments L.L.C. dba "Inn at Lincoln" for a Class "I" liquor license at 5250 Cornhusker Highway, Lincoln, Nebraska, for the license period ending April 30, 2001, be approved with the condition that the premise complies in every respect with all city and state regulations. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

MAN. APP. ALBERT LAMBERT FOR LAMBERT INVESTMENTS LLC DBA INN AT LINCOLN AT 5250 CORNHUSKER HWY. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80389 WHEREAS, Lambert Investments L.L.C. dba "Inn at Lincoln" located at 5250 Cornhusker Highway, Lincoln, Nebraska has been approved for a Retail Class "I" liquor license, and now requests that Albert Lambert be named manager;

WHEREAS, Albert Lambert appears to be a fit and proper person to manage said business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that Albert Lambert be approved as manager of this business for said licensee. The City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF SAND CORP. DBA THE WATERING HOLE FOR A LIQUOR CATERING LICENSE AT 1321 "O" ST. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80390 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the



pertinent City ordinance, the City Council recommends that the application of Sand Corporation dba "The Watering Hole" for the issuance of a Catering Permit to the existing liquor license, located at 1321 "O" Street, Lincoln, Nebraska, be approved with the condition that the premise complies in every respect with all city and state regulations.

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted by the City Clerk to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF FAMOUS DAVE'S FOR A SPECIAL DESIGNATED LIQUOR LICENSE TO COVER AN OUTSIDE 60' CIRCULAR AREA AT 2750 PINE LAKE RD. ON SEPTEMBER 30, 2000 FROM 8:00 A.M. TO 10:00 P.M. - DEPUTY CLERK read the following resolution, introduced by Cindy Johnson, who moved its adoption for approval:

A-80391 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That after hearing duly had as required by law, consideration of the facts of this application, the Nebraska Liquor Control Act, and the pertinent City ordinances, the City Council recommends that the application of Famous Dave's for a Special Designated License to cover a 60 foot circular area at 2750 Pine Lake Road, Lincoln, Nebraska, on the 30th day of September, 2000 between the hours of 8:00 a.m. and 10:00 p.m., be approved with the condition that the premise complies in every respect with all City and State regulations and with the following requirements:

1. Identification to be checked, wristbands required on all parties wishing to consume alcohol.
2. Adequate security shall be provided for the event.
3. The area requested for the permit shall be separated from the public by a fence or other means.
4. Responsible alcohol service practices shall be followed.

BE IT FURTHER RESOLVED the City Clerk is directed to transmit a copy of this resolution to the Nebraska Liquor Control Commission.

Introduced by Cindy Johnson

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING AN AGRMT. BETWEEN THE CITY, EMERGENCY MEDICAL SERVICES INC., ST. ELIZABETH COMMUNITY HEALTH CENTER & BRYAN-LGH MEDICAL CENTER TO PROVIDE MEDICAL OVERSIGHT FOR AMBULANCE SERVICE FOR A PERIOD OF 4 YRS. - PRIOR to reading:

JOHNSON Moved to delay action for one week to 9/18/00.

Seconded by Seng & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APPROVING THE 2000-2001 WORK PLAN TO THE INTERLOCAL AGRMT. ON STORMWATER MANAGEMENT BETWEEN THE CITY & THE LOWER PLATTE SOUTH NATURAL RESOURCES DIST. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80393 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska: That the attached Fiscal Year 2000-2001 Work Plan to the Interlocal Agreement on Stormwater Management between the City of Lincoln and the Lower Platte South Natural Resources District, which is attached hereto marked as Attachment "A", is hereby approved and the Mayor is authorized to execute the same on behalf of the City of Lincoln. Said Fiscal Year 2000-2001 Work Plan establishes a framework and division of responsibilities for addressing stormwater quality and quantity in the City between the City of Lincoln and the Lower Platte South Natural Resources District and authorizes the use of appropriated monies in accordance with the terms and conditions contained in said Fiscal Year 2000-2001 Work Plan.

The City Clerk is directed to transmit a certified copy of the executed original Fiscal Year 2000-2001 Work Plan to the Interlocal Agreement to Steve Masters, Public Works and Utilities Department, for transmittal to the Lower Platte South NRD.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

REAPPOINTING JIM ARTER, JERRY BARNES, JON CAMP, KEN HAKE, MAURICE LANGE, MARY JANE STEWARD, MARCIA WHITE, & BOB CAMPBELL TO THE DOWNTOWN BUSINESS AREA IMPROVEMENT BOARD FOR 3-YR. TERMS EXPIRING SEPT. 1, 2003 - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80394 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the reappointment of Jim Arter, Jerry Barnes, Jon Camp, Ken Hake, Maurice Lange, Mary Jane Steward, Marcia White, and Bob Campbell to the Downtown Business Area Improvement Board for three-year terms expiring September 1, 2003 is hereby approved.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF THE BLESSED SACRAMENT CHURCH TO CONDUCT A LOTTERY WITHIN THE CITY OF LINCOLN FROM SEPT. 5,, 2000 THROUGH OCT. 22, 2000 - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80395 WHEREAS, Blessed Sacrament Church has made application for a permit to conduct a lottery in the City of Lincoln pursuant to Chapter 9.32 of the Lincoln Municipal Code; and

WHEREAS, said application complies with all of the requirements of Section 9.32.030 of the Lincoln Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That, after public hearing duly had as required by Section 9.32.050 of the Lincoln Municipal Code, the City Council does hereby grant a permit to Blessed Sacrament Church to conduct a lottery in the City of Lincoln in accordance with the application filed by Rev. John Sullivan. The City Clerk is directed to issue a permit upon the payment by the applicant of the required fee, said permit to be valid only for the specific lotteries described in said application and only for a period of one year from the date of approval of this resolution. Said permit shall be subject to all of the conditions and requirements of Chapter 9.32 of the Lincoln Municipal Code.

BE IT FURTHER RESOLVED that pursuant to Section 9.32.080 of the Lincoln Municipal Code, a tax of 5% is imposed upon the gross proceeds received from the sale of lottery chances or tickets within the City of Lincoln, which tax shall be due no later than sixty (60) days after the conclusion of each lottery to be conducted hereunder, and if unpaid at that time, shall thereafter be delinquent.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

APP. OF THE LINCOLN HOSPITAL ASSN. TO CONDUCT A LOTTERY WITHIN THE CITY OF LINCOLN FROM 9/1/00 TO 11/20/00; 11/15/00 TO 12/25/00; 1/15/01 TO 5/20/01. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80396 WHEREAS, Lincoln Hospital Association has made application for a permit to conduct a lottery in the City of Lincoln pursuant to Chapter 9.32 of the Lincoln Municipal Code; and

WHEREAS, said application complies with all of the requirements of Section 9.32.030 of the Lincoln Municipal Code.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That, after public hearing duly had as required by Section 9.32.050 of the Lincoln Municipal Code, the City Council does hereby grant a permit to Lincoln Hospital Association to conduct a lottery in the City of Lincoln in accordance with the application filed by Arlan Stromberg. The City Clerk is directed to issue a permit upon the payment by the applicant of the required fee, said permit to be valid only for the specific lotteries described in said application and only for a period of one year from the date of approval of this resolution. Said permit shall be subject to all of the conditions and requirements of Chapter 9.32 of the Lincoln Municipal Code.

BE IT FURTHER RESOLVED that pursuant to Section 9.32.080 of the Lincoln Municipal Code, a tax of 5% is imposed upon the gross proceeds received from the sale of lottery chances or tickets within the City of Lincoln, which tax shall be due no later than sixty (60) days after the conclusion of each lottery to be conducted hereunder, and if unpaid at that time, shall thereafter be delinquent.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MON., SEPT. 18, 2000 AT 5:30 P.M. ON THE MAN. APP. OF JANICE MITZNER FOR NEBRASKA RETAIL VENTURES LLC DBA "AMPRIDE #106" AT 4401 N 70<sup>TH</sup> - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80397 BE IT RESOLVED by the City Council, of the City of Lincoln, that a

hearing date is hereby fixed for Mon., Sept. 18, 2000, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following Man. App. of Janice Mitzner for Nebraska Retail Ventures LLC dba "Ampride #106" at 4401 N 70th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MON., SEPT. 18, 2000 AT 5:30 P.M. ON MAN. APP. OF DANNY L. BLIN FOR WHITEHEAD OIL CO. DBA U-STOP CONVENIENCE SHOP AT 8231 EAST "O" ST. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80398 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Sept. 18, 2000, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following Man. App. of Danny L. BLIN for Whitehead Oil Co. dba "U-Stop Convenience Shop" at 8231 East "O" Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MON., SEPT. 18, 2000 AT 5:30 P.M. ON MAN. APP. FOR WILLIAM R. KELLER OF WHITEHEAD OIL CO. DBA "U-STOP CONVENIENCE SHOP" AT 1421 CENTER PARK RD. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80399 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Sept. 18, 2000, at 1:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following Man. App. of William R. KELLER for Whitehead Oil Co. dba "U-Stop Convenience Shop" at 1421 CENTER PARK Rd.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MON., SEPT. 25, 2000 AT 5:30 P.M. ON APP. OF HANKY DINKY LINCOLN #9, LLC DBA "SUN MART #738" FOR A CLASS D LIQUOR LICENSE AT 2145 S. 17<sup>TH</sup> ST. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80400 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Sept. 25, 2000, at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following App. of HANKY Dinky Lincoln #9 LLC dba "Sun Mart #738" for a Class "D" Liquor License located at 2145 S. 17th Street.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

SETTING HEARING DATE OF MON., SEPT. 25, 2000 AT 5:30 P.M. ON APP. OF HANKY DINKY LINCOLN #11 LLC DBA "SUN MART #731" FOR A CLASS D LIQUOR LICENSE AT 2600 S 48<sup>TH</sup> ST. - DEPUTY CLERK read the following resolution, introduced by Jon Camp, who moved its adoption:

A-80401 BE IT RESOLVED by the City Council, of the City of Lincoln, that a hearing date is hereby fixed for Mon., Sept. 25, 2000, at 5:30 p.m. or as soon thereafter as possible in the City Council Chambers, County-City Building, 555 S. 10th St., Lincoln, NE, for the purpose of considering the following App. of HANKY Dinky Lincoln #11, LLC dba "Sun Mart #731" for a Class "D" Liquor License located at 2600 S. 48th Street, Suite 8.

If the Police Dept. is unable to complete the investigation by said time, a new hearing date will be set.

Introduced by Jon Camp

Seconded by Johnson & carried by the following vote: AYES: Camp,

Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**ORDINANCES - 1ST & 2ND READING**

NAMING THE PRIVATE ROAD IN THE AIRPORT WEST OF N. PARK RD. AS "W. SUPERIOR ST." -  
DEPUTY CLERK read an ordinance, introduced by Coleen Seng, to name the recently constructed private road in the airport, west of North Park Road, as "West Superior Street", as requested by the Lincoln Airport Authority and recommended by the Street Name Committee, the first time.

CHANGE OF ZONE 3268 - APP. OF GARNER INDUSTRIES FOR A CHANGE FROM I-2 INDUSTRIAL PARK TO I-2 INDUSTRIAL PARK PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT N. 98TH ST. & CORNHUSKER HWY. - Prior to reading:

SENG Moved to continue Public Hearing & to have Action on 9/18/00.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

DEPUTY CLERK read an ordinance, introduced by Annette McRoy, amending the City of Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, changing the boundaries of the districts established & shown on said City of Lincoln Zoning Dist. Maps as provided in Sec. 27.05.020 of the LMC & approving the designation of the area hereinafter described as a planned unit development, the second time.

CHANGE OF ZONE 3206 - APP. OF REALTY TRUST GROUP FOR A CHANGE FROM AGRICULTURAL RESIDENTIAL TO B-1 LOCAL BUSINESS DIST. ON PROPERTY GENERALLY LOCATED AT S. 70TH ST. & PINE LAKE RD. - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, amending the City of Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the second time.

CHANGE OF ZONE 3207 - APP. OF REALTY TRUST GROUP FOR A CHANGE FROM AG AGRICULTURAL TO B-2 PLANNED NEIGHBORHOOD BUSINESS DIST. ON PROPERTY GENERALLY LOCATED AT S. 84TH ST. & OLD CHENEY RD. - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, amending the City of Lincoln Zoning Dist. Maps attached to & made a part of Title 27 of the LMC, as provided by Sec. 27.05.020 of the LMC, by changing the boundaries of the districts established & shown thereon, the second time.

APPROVING AN EXTENSION OF THE CABLE TELEVISION FRANCHISE BETWEEN THE CITY & AOL/TIME WARNER, INC. FOR 60 DAYS BEYOND THE FRANCHISE EXPIRATION OF SEPT. 15, 2000 - DEPUTY CLERK read an ordinance, introduced by Annette McRoy, approving an extension of the Cable Television Franchise with AOL Time Warner, Inc. for 60 days beyond the franchise expiration of Sept. 15, 2000, the second time.

**MISCELLANEOUS BUSINESS**

**PENDING LIST -**

CAMP Moved to extend the Pending List for 1 week.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

**UPCOMING RESOLUTIONS**

MOTION (RESOLUTION) TO PLACE INITIATIVE CHARTER AMENDMENT RELATING TO AMBULANCE PROVIDER ON THE NOVEMBER 7, 2000. PUBLIC HEARING & ACTION TO BE HELD 9/18/00 - DEPUTY CLERK requested to have Public Hearing & action on 9/18/00.

SENG So moved.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

HEARING DATE OF MON., SEPT. 25, 2000 AT 5:30 P.M. ON THE APP. OF LINCOLN-P STREET CATERING CO., INC. DBA "EMBASSY SUITES" FOR AN ADDITION TO PREMISE AT 1040 P STREET - DEPUTY CLERK requested a motion to withdraw.

SENG So moved.  
Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

CAMP            Moved to approve the resolutions to have Public Hearing on Sept. 18, 2000.  
                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.

ADJOURNMENT

3:31 P.M.

CAMP            Moved to adjourn the City Council Meeting of Sept. 11, 2000.  
                  Seconded by Johnson & carried by the following vote: AYES: Camp, Cook, Fortenberry, Johnson, McRoy, Seng, Shoecraft; NAYS: None.  
  
                  So ordered.

\_\_\_\_\_  
Joan E. Ross, Deputy City Clerk

\_\_\_\_\_  
Judy Roscoe, Office Assistant III